

Docket No: 33500-005  
File No: 20594

PATENT

J1046 U.S. PTO  
09/892628  
06/28/01



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :  
William Kitchen et. al. :  
: :  
Serial No. 09/034,561 : Group Art Unit: 2761  
: :  
Filed: March 3, 1998: : Examiner:  
: Unassigned  
For: ELECTRONIC BILL PROCESSING

PETITION UNDER 37 CFR 47(a)

Honorable Assistant Commissioner  
of Patents  
Washington, D. C. 20231

Sir:

This Petition is filed concurrently with a response to the Notice to File Missing Parts of Application which issued on June 5, 1998. The undersigned hereby Petitions the Commissioner under 37 CFR 47(a) to accept, and proceed with the examination of, the above referenced Application notwithstanding the unavailability or refusal of certain of the joint inventors to execute the Application. In support of the Petition, it is respectfully submitted that:

1. The above referenced utility application was filed under 37 CFR 1.53 on March 3, 1998 as acknowledged in the Filing Receipt and Notice to File Missing Parts of Application dated June 5, 1998.

2. As set forth in the Declaration and Power of Attorney filed herewith, the inventors on the above referenced application are William Kitchen, Ginger Moses, Ralph Au, Clarence Bringardner and Kenneth Bradley.

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3. The Declaration and Power of Attorney filed herewith has been executed by named inventors William Kitchen, Ginger Moses, and Ralph Au on a Declaration and Power of Attorney document also naming Clarence Bringardner and Kenneth Bradley as inventors. Accordingly, inventors William Kitchen, Ginger Moses, Ralph Au have signed the Application on their own behalf as well as on behalf of non-signing inventors Clarence Bringardner and Kenneth Bradley.

4. As evidenced by the Declaration of Sharon Hand submitted herewith, a copy of the Application, Declaration and Power of Attorney have been forwarded on June 23, 1998 via UPS and again on August 26, 1998 via the U.S. Postal Service (certified mail return receipt requested) to Clarence Bringardner at his last know address and to Kenneth Bradley at his last know address.

5. As also evidenced by the Declaration of Sharon Hand, the materials forwarded by UPS to Mr Bringardner have been returned as undeliverable by UPS. The materials forwarded by the U.S. Postal Service to Mr Bringardner have not been returned as undeliverable. However, the certification of delivery/non-delivery (i.e. Form 3811) has not been returned as yet by the U.S. Postal Service. Accordingly, a trace was placed on the certification of delivery/non-delivery on November 18. 1998. This Petition will be supplemented and a copy of the certification of delivery/non-delivery (if available) will be submitted after the U.S. Postal Service completes its trace of the certification. Mr. Bringardner has not contacted Ms. Hand in connection with this application. Further, the executed Declaration and Power-of-Attorney documents included as part of the materials forwarded by the U.S. Postal Service to Mr. Bringardner have not been returned to Ms. Hand.

6. As also evidenced by the Declaration of Sharon Hand, the materials forwarded by UPS and the U.S. Postal Service to Mr Bradley have been delivered. Mr. Bradley has not contacted Ms. Hand in connection with this application. Further, the executed Declaration and Power-of-Attorney documents included as part of the materials forwarded to Mr. Bradley have not been returned to Ms. Hand.

7. As evidenced by the attached Declaration of Sheila Foxx, no Declaration and Power of Attorney executed by either Mr. Bradley or Mr. Bringardner in connection with the above referenced case has been received by the undersigned's firm either directly, indirectly through the undersigned's prior firm (Jenkens & Gilchrist), or otherwise.

8. It is respectfully submitted that (i) a diligent effort has been made to find and reach joint inventors Bradley and Bringardner and to obtain their respective signatures on the above referenced Application; (ii) inventor Bringardner either cannot be found or reached or, if the results of the trace currently being performed by the U.S. Postal Service indicate that inventor Bringardner did receive the Application, he has neither returned the executed Application nor indicated any intention to do so and in such case should be deemed to have refused to execute the Application; (iii) inventor Bradley has received the Application but has neither returned the executed Application nor indicated any intention to do so, therefore inventor Bradley should be deemed to have refused to execute the Application; (iv) all available joint inventors (i.e. William Kitchen, Ginger Moses, and Ralph Au) have executed the Application on their own behalf and on behalf of the non-signing inventors (i.e. Clarence Bringardner and Kenneth Bradley).

9. In view of the above, it is respectfully requested that the Commissioner find that inventor Bringardner is unavailable and/or has refused to execute the above referenced Application, that inventor Bradley is unavailable and/or has refused to execute the above referenced Application, and that the Application can be made in the name of the joint inventors who have executed the Application on their own behalf and on behalf of the non-signing inventors Bringardner and Bradley.

In summary, it is respectfully submitted that the mandates of 37 CFR 47(a) have been fulfilled and the above referenced application is acceptable notwithstanding non-execution by two of the five joint inventors. Accordingly it is respectfully requested that this Petition be GRANTED and prosecution of the Application be allowed to proceed.

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It is respectfully requested that the undersigned be contacted by telephone at the below listed local telephone number, in order to expedite resolution of any issues, or if any comments, questions, or suggestions arise in connection with herewith.

A check in the amount of \$130.00 to cover the Petition Fee under 37 CFR 1.17(h) is enclosed herewith. Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account No. 12-0429, and please credit any excess fees to such deposit account.

Respectfully submitted,  
LALOS & KEEGAN

By:   
Alfred A. Stadnicki  
Registration No. 30,226

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1146 Nineteenth Street, N.W.  
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Washington, D.C. 20006-3703  
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November 25, 1998

In re Application of  
William Kitchen et. al.

Serial No. 09/034,561

Group Art Unit:2761

Filed: March 3, 1998:

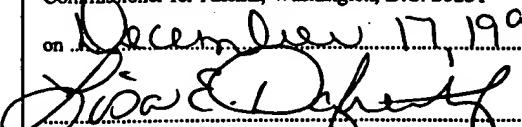
Examiner: Unassigned

For: ELECTRONIC BILL PROCESSING

J1046 U.S. PRO  
09/892628  
06/28/01

**SUPPLEMENT TO PETITION UNDER 37 CFR 47 (a)**

Honorable Assistant Commissioner  
for Patents  
Washington, DC 20231

|   |
|---|
| I hereby certify that this paper or fee is being deposited with the U.S. Postal Service as First Class Mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 |
| on <u>December 17, 1998</u>   |
|   |
| Signature   |

Sir:

Further to the Petition under 37 CFR 47 (a) filed concurrently with the Response to the Notice to File Missing Parts of Application, on November 30, 1998, it is respectfully submitted that:

1. As set forth in paragraph 5 of the Petition, the certification of delivery/non-delivery (i.e. Form 3811) had not been returned by the U.S. Postal Service at the time of the filing of the Petition for the August 26, 1998 certified mailing to Mr. Clarence Bringardner at 2995 Dresden Street, Columbus, OH 43224. Accordingly, a trace had been placed on the certification of delivery/non-delivery by the U.S. Postal Service on November 18, 1998.
2. The U.S. Postal Service has now completed its trace, and as indicated on the attached copy of the Domestic Return Receipt (After Mailing) Form 3811-A and stamped by the U.S. Postal Service with an "INQUIRY" stamp dated December 8, 1998, the U.S. Postal Service has no record of delivery or return of the certified mailing. As advised by the postal service this means that the certified mailing was never delivered or picked up from the post office and it was then lost during the process of returning the mailed materials to the sender.
3. It is therefore respectfully submitted that after a diligent effort to find and reach joint inventor Bringardner to obtain his signature on the above-referenced application, inventor Bringardner cannot be found or reached.
4. In view of the Petition under 37 CFR 47 (a) filed November 30, 1998, and this Supplement to the Petition, it is respectfully requested that the Commissioner find that the inventor Bringardner is unavailable and that inventor Bradley is unavailable and/or has refused to execute the above-referenced application, and that the application can be made by the three inventors who have executed the application on their own behalf and on the behalf of the non-signing inventors Bringardner and Bradley.

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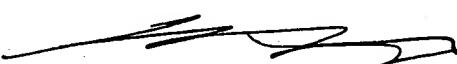
In summary, it is respectfully submitted that the mandates of 37 CFR 47 (a) have been fulfilled and the above-referenced application is acceptable notwithstanding non-execution by two of the five joint inventors. Accordingly, it is respectfully requested that this Petition be granted and prosecution of the application be allowed to proceed.

It is respectfully requested that the undersigned be contacted by telephone at the below listed local telephone number, in order to expedite resolution of any issues, or if any comments, questions or suggestions arise in connection herewith.

Please charge any shortage of fees in connection with the filing of this paper to deposit account number 12-0429, and please credit any excess fees to such deposit account.

Respectfully submitted,

LALOS & KEEGAN



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Registration No. 30,226

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